

distance, different from said first distance, on a second side of said first axis, opposite said first side.

Claim 35 (Previously presented): The linkage member of claim 34 wherein said first and second portions of said shank are cylindrical and said first cross-sectional shape is circular.

Claim 36 (Previously presented): The linkage member of claim 34 wherein said first and second axes are linear and are parallel to each other.

Claim 37 (Previously presented): The linkage member of claim 34 wherein said outer surface of each said first and second transition portions tapers radially inwardly, relative to said first axis, from said first portion of said shank to said second portion of said shank.

REMARKS

This paper is responsive to the Office Action mailed June 4, 2004. Reconsideration of the subject application is respectfully requested based on the following remarks.

Claims 15-17 and 22-37 are pending in the subject application with claims 29-37 allowed and claims 15-17 and 22-28 rejected.

Claims 22-28 are rejected pursuant to 35 USC §112 for containing language in claim 22 that renders claims 22-28 unclear: “said narrowed second portion of said shank including a second outer surface **that extends entirely around said circumference of said shank...**” The June 4, 2004 Office Action noted that since the second outer surface has a circumference that is smaller than the circumference of the shank it would not “extend entirely around” the circumference of the shank. Applicant has amended claim 22 to remove the language “extends entirely around said circumference of said shank” to overcome the subject rejection under 35 USC §112.

In the June 4, 2004 Office Action the rejections of claims 15-17 and 22-28 based on Kato et al under 35 USC §102 or Sukigara et al in view of Kato et al under 35 USC §103 were maintained notwithstanding the amendments to claims 15 and 22 in the March 23, 2004 Preliminary Amendment, summarized below:

a predetermined weakened portion having a cross-sectional configuration that is **not centered on said axis**,

said predetermined weakened portion being **substantially linear**, and

said predetermined weakened portion having a **substantially uniform cross-sectional configuration**.

Applicant respectfully draws the Examiner's attention to the conjunctive "**and**," as opposed to "**or**," in these above three claim limitations mandating that all three of the above limitations are required in the subject claims. In reply to the above amendments, the June 4, 2004 Office Action included a "Response to Arguments" section on page 6 thereon in which the Examiner first states that Kato et al shows a weakened area in FIGS. 12A and 12C that is substantially **linear** and has a substantially **uniform** cross-sectional configuration. Presuming for the sake of discussion that the embodiment of FIG. 12 of Kato et al does meet the above two claim amendment limitations, FIG. 12 of Kato et al. does not meet the third requirement: that the predetermined weakened portion have a cross-section configuration that is **not centered on said axis**. Importantly, Kato et al expressly stated that the embodiment of FIGS. 12A-12C:

... has a locally thin-walled portion 207 **in the longitudinal center of member host 202**. (Column 10, Lines 51-53).

Next referring to FIG. 7 of Kato et al discussed in the "Response to Arguments" portion of the June 4, 2004 Office Action, it is asserted that this embodiment is "substantially linear." However, **all three** of the above claim limitations are again not met because the weakened portion of the FIG. 7 embodiment of Kato et al clearly has a non-uniform cross section as opposed to a **uniform cross-section**:

... an **arc-shaped** recess 108 is formed in one location of the **curved wall** of the member 111... (Column 8, Lines 16-18).

By definition, removing an arcuate portion from a cylindrical object will result in a non-uniform cross-section along the length of the cylindrical object at the location where the arcuate portion was removed.

Notwithstanding the above assertions, Applicant has again amended independent claims 15 and 22 to require that:

said predetermined weakened portion having **one of a circular and an elliptical** substantially uniform cross-section.

The above claim amendment tracks the Examiner's indication in the record that claims directed to a "cylindrical" weakened portion would be allowable because a cylinder has a circular uniform cross-section. The addition of the language "having one of a circular and an elliptical" substantially uniform cross-section clearly takes both of the embodiments of FIGS. 7 and 12 of Kato et al even further outside of the scope of the claims of the subject invention since the cross-section of neither embodiment is a substantially uniform circle or ellipse (the cross-section of FIG. 7 being far from uniform when different cross-sections are taken through the longitudinal axis).

For the reasons stated above, Applicant respectfully submits that none of the examples specifically referenced in the "Response to Arguments" portion of the June 4, 2004 Office Action, as well as none of the prior art of record, either anticipates or renders obvious claims 15-17 and 22-28 as amended.

CERTIFICATE OF MAILING

I hereby certify that the following mail is being deposited with the U.S. Postal Service, Post Office Addressee via First Class Mail addressed to Mail Stop RCE, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on December 3, 2004

Elise Ariel

Name of Person Depositing Mail

Elise Ariel

Signature

12/3/04

Date

Respectfully submitted,



John M. Johnson
Attorney for Applicant
Reg. No. 33,334
Carter Ledyard & Milburn LLP
2 Wall Street
New York, NY 10005
Telephone No.: (212) 238-8650
Facsimile No.: (212) 732-3232

CLAIM LISTING

Claim 1-14 (Canceled)

Claim 15 (Currently amended): A vehicle linkage member comprising:

a socket; and

a stud having a ball end portion received in said socket and supported for pivotal movement relative to said socket, said stud having a longitudinal axis, said stud having a shank portion projecting from said socket and centered on said axis;

said shank portion of said ball stud including a predetermined weakened portion, said predetermined weakened portion having a cross-sectional configuration that is not centered on said axis said predetermined weakened portion being substantially linear and having [[a]] one of a circular and an elliptical substantially uniform cross-sectional configuration.

Claim 16 (Previously presented): A linkage member as set forth in claim 15 wherein said shank portion of said ball stud has a circular cross-sectional configuration centered on said axis and said predetermined weakened portion has a circular cross-sectional configuration that is eccentric to said axis.

Claim 17 (Previously presented): A linkage member as set forth in claim 15 wherein said predetermined weakened portion buckles under a predetermined amount of force.

Claims 18-21 (Canceled)

Claim 22 (Currently amended) A linkage member comprising:

a shank extending axially along a first axis, said shank having a first portion with a first outer surface that extends entirely around a circumference of said shank and is centered on said first axis;

said shank including a narrowed second portion at a predetermined location along said first axis, said narrowed second portion having a cross-sectional area less than a cross-sectional area of said first portion, said shank adapted to buckle at said narrowed second portion under a predetermined axial load,

said narrowed second portion of said shank including a second outer surface that [extends entirely around said circumference of said shank and] is located entirely within a projection of said cross-sectional area of said first portion, said narrowed second portion being centered on a second axis that is offset relative to said first axis said narrowed second portion being substantially linear and having one of a circular and an elliptical substantially uniform cross-sectional configuration.

Claim 23 (Previously presented) The linkage member of claim 22 wherein said first and second outer surfaces are cylindrical, said entire second outer surface being located radially inwardly, relative to said first axis, of said first outer surface.

Claim 24 (Previously presented) The linkage member of claim 23 wherein said narrowed second portion of said shank includes first and second opposite ends, a first annular tapered surface connecting said first outer surface to said second outer surface at said first end of said narrowed second portion and a second annular tapered surface connecting said first outer surface to said second outer surface at said second end of said narrowed second portion, said first and second annular tapered surfaces being asymmetric about said first axis.

Claim 25 (Previously presented) The linkage member of claim 23 wherein said shank has a first circular cross-section and said narrowed portion has a second circular cross-section that is non-concentric with said first circular cross-section.

Claim 26 (Previously presented) The linkage member of claim 22 wherein said second axis extends parallel to said first axis.

Claim 27 (Previously presented) The linkage member of claim 26 said narrowed second portion of said shank extends straight along said second axis and parallel to said first axis.

Claim 28 (Previously presented) The linkage member of claim 23 wherein said first and second axes are linear and are parallel to each other.

Claim 29 (Previously presented) A linkage member comprising:

a shank having opposite ends and extending axially along a first linear axis, said shank having a first portion with a first linear axis, said shank having a first portion with a first cylindrical outer surface that is centered on said first linear axis;

said shank including a narrowed second portion at a predetermined location intermediate said ends of said shank along said first linear axis, said narrowed second portion having a cross-sectional area less than a cross-sectional area of said first portion, said shank adapted to buckle at said narrowed second portion under a predetermined axial load,

said narrowed second portion of said shank including a second cylindrical outer surface that is centered on a second linear axis that is offset relative to said first linear axis and extends parallel to said first linear axis.

Claim 30 (Previously presented) The linkage member of claim 29 wherein said entire second cylindrical outer surface is located radially inwardly, relative to said first cylindrical linear axis, of said first outer surface.

Claim 31 (Previously presented) The linkage member of claim 30 wherein said narrowed second portion of said shank includes first and second opposite ends, a first annular tapered surface connecting said first outer surface to said second outer surface at said first end of said narrowed second portion and a second annular tapered surface connecting said first outer surface to said second outer surface at said second end of said narrowed second portion, said first and second annular tapered surfaces being asymmetric about said first linear axis.

Claim 32 (Previously presented) The linkage member of claim 30 wherein said shank has a first circular cross-section and said narrowed portion has a second circular cross-section that is non-concentric with said first circular cross-section.

Claim 33 (Previously presented) The linkage member of claim 29 wherein said narrowed second portion of said shank extends straight along said second linear axis and parallel to said first linear axis.

Claim 34 (Previously presented) A linkage member comprising:

a shank having first and second portions, said first portion having opposite first and second ends and extending axially along a first axis, said first portion having a first cross-sectional area that is centered on said first axis, said first cross-sectional area having a first cross-sectional shape;

said second portion of said shank being located intermediate said first and second ends of said first portion, said shank adapted to buckle at said second portion under a predetermined axial load, said second portion of said shank having a second cross-sectional area that is smaller than said first cross-sectional area, said second cross-sectional area being centered on a second axis that is offset relative to said first axis, said second cross-sectional area also having said first cross-sectional shape;

first and second transition portions connecting said second portion of said shank to said first and second ends of the first portion, respectively, each of said first and second transition portions having an outer surface that extends axially, when measured along said first axis, over a first distance on a first side of said first axis and over a second distance, different from said first distance, on a second side of said first axis, opposite said first side.

Claim 35 (Previously presented) The linkage member of claim 34 wherein said first and second portions of said shank are cylindrical and said first cross-sectional shape is circular.

Claim 36 (Previously presented) The linkage member of claim 34 wherein said first and second axes are linear and are parallel to each other.

Claim 37 (Previously presented) The linkage member of claim 34 wherein said outer surface of each said first and second transition portions tapers radially inwardly, relative to said first axis, from said first portion of said shank to said second portion of said shank.